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**FISCAL IMPACT STATEMENT**

**LS 7236**

**BILL NUMBER:** SB 365

**NOTE PREPARED:** Jan 6, 2009

**BILL AMENDED:**

**SUBJECT:** Various Department of Child Services Matters.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that the Department of Child Services (DCS) is responsible for the cost of treatment or maintenance of a child under DCS's supervision only if the costs are reimbursable under the state Medicaid program.

The bill changes references from the Family and Social Services Administration to the Department of Child Services. It corrects references from the county office of family and children to the local office of DCS. The bill changes references from caseworkers to family case managers. The bill also changes references from child abuse "investigations" to child abuse "assessments."

This bill provides that DCS shall assess a report of a child who lives with a parent who is married to or lives with a person who is required to register as a sex offender.

This bill removes a requirement that the probation department complete a child's case plan not more than 60 days after the date of the dispositional decree. It also requires the probation department to create a case plan if a decree is modified. It removes a requirement for a probation officer to include certain information in a predispositional report for DCS to determine if a child is eligible for certain government assistance.

This bill also removes the requirement that the Bureau of Child Support demonstrate that all previous enforcement actions have been unsuccessful before sending an obligor a notice that the obligor is delinquent.

The bill provides that a petition alleging that a child taken into custody is a Child in Need of Services (CHINS) shall be filed before the detention hearing. It also requires the initial hearing on the CHINS petition to be held at the same time as the detention hearing. The bill repeals provisions that specify that a child is

a CHINS if the child endangers the child's own health or the health of another individual, and the child needs care, treatment, or rehabilitation.

The bill allows DCS to adopt emergency rules in certain circumstances.

This bill also provides that if an adult is with a child before the child's death, and the adult refused to submit to a drug or alcohol screen test within eight hours of the child's death, the refusal to submit to the screen test is prima facie evidence that the adult was intoxicated or under the influence of alcohol or drugs at the time of the fatality.

It enhances battery to a Class D felony if the victim suffers bodily injury and is a DCS employee. The bill adds employees of DCS to the list of persons covered by the statute making battery by bodily waste a Class D felony.

The bill also repeals a provision prohibiting DCS from initiating a proceeding, or requiring a parent or custodian to consent to a proceeding, to terminate parental rights or transfer legal custody for certain children.

This bill also requires a coroner to notify the local office of DCS of the death of a person who is less than 18 years of age.

The bill requires DCS, in cooperation with the state Department of Education, to develop and coordinate the education advocates for children in foster care plan.

The bill also makes conforming changes.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Costs of Treatment:* This bill changes current law to require that DCS is required to pay for costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution only if the costs are reimbursable under Medicaid. This will decrease DCS expenditures to the extent that DCS financed the care of children that is outside the reimbursement eligibility under the Medicaid program. Total decreases in expenditures is indeterminable. Any expenditure decreases that DCS would experience would be shifted to either the Division of Mental Health and Addiction (DMHA) or the Division of Disability and Rehabilitative Services (DDRS). These are the agencies that oversee the operations of the state institutions where a child may be placed.

*Probationary Reporting Requirement:* This bill removes the requirement that a probation officer coordinate with DCS in order to make a program/service recommendation in a predispositional report during a juvenile delinquency case. This will reduce the workload of DCS staff to review and recommend services for children in a juvenile delinquency case. The Division of State Court Administration reports that in 2007 there were 11,220 juvenile delinquency cases filed, of which 1,239 were disposed. [Note: It is not known the extent to which probation officers currently request DCS staff to make program/service recommendations in juvenile delinquency cases as DCS bears no costs for secure juvenile detention. Currently, probation officers are required to coordinate with DCS in order to determine if a child is eligible for services provided by the Department.

*Sex Offender Registration and CHINS:* This bill can increase the number of children who are considered

CHINS in the state. The DCS reports the number of children that currently live with registered sex offenders is unknown.

Any increase in the number of CHINS may also increase the number of Guardian Ad Litem (GAL) and Court Appointed Special Advocates (CASA) that are assigned to CHINS determination hearings. Increases in the number of CHINS will also increase the caseload of juvenile courts with a subsequent increase in the number of CHINS cases heard.

The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. If this bill increases the number of CHINS, state expenditures for the GAL/CASA program will increase as well. Actual increases in state expenditures will depend on any change in CHINS numbers in a county.

*Child Support Bureau:* This bill will expedite the process by which the Bureau of Child Support issues notices that an obligor is delinquent in paying his or her child support. Delinquency is defined as either owing \$2,000 in child support or failing to pay child support for three months. Currently, the Bureau is required to be able to demonstrate before a judge that all previous enforcement actions were unsuccessful. Removing this provision may not necessarily decrease workload to prove actions were unsuccessful, but will no longer require the Bureau to be able to demonstrate their attempts and can increase child support collection efforts. The impact on the Bureau's workload is expected to be minimal.

*CHINS and Detention Hearings:* The DCS reports that currently there are separate hearings held for CHINS determinations and child detention hearings. By combining the two hearings into a single hearing, court caseload will decrease.

The Division of State Court Administration does not collect information on how many children receive detention hearings and CHINS determination hearings. The decrease in court caseload is indeterminable.

*Prima Facie Evidence Provisions:* The legislation provides that if an adult is with a child before a child's death, and the adult refuses to submit to a drug or alcohol screening test, refusal constitutes evidence that the parent was intoxicated or under the influence of alcohol or drugs at the time of the fatality. The bill allows an assumed impairment to be used during a judgment of child neglect. If a neglect substantiation is entered, any other children who reside in the house may receive a judicial order for out-of-home placement. If there is an increase in the number of out-of-home placements, the state would experience increases in expenditures. Expenditure increases would be dependant upon judge decisions, but are expected to be small.

*CHINS from Self-Inflicted Harm:* This bill may decrease the number of children that are considered CHINS due to self-inflicted abusive behavior. Any decrease in the number of CHINS may also decrease the number of Guardian Ad Litem and Court Appointed Special Advocates that are assigned to CHINS during child abuse determination cases and parental rights termination cases. Decreases in the number of CHINS will also decrease the caseload of juvenile courts with a subsequent decrease in the number of CHINS cases heard. Actual future decreases in CHINS cases resulting from self-inflicted abusive behavior is indeterminable but expected to be small.

DCS funds programming and services for CHINS. CHINS programming and services are ordered by a judge during the CHINS determination and is normally an agreed-on recommendation made by both DCS and the CASA representing the child. DCS reports that the total CHINS cost in CY 2007 was approximately \$380 M.

If this bill decreases the number of CHINS, state expenditures for the GAL/CASA program will decrease as well. Actual decreases in state expenditures will depend on any change in CHINS numbers in a county. Actual decreases in state expenditures is indeterminable, but expected to be small.

*Penalty Provision:* The legislation provides that battery that results in bodily injury is a Class D felony if committed against a DCS employee while the employee acts within their official duties. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Education Advocates:* The bill requires DCS, in cooperation with the Department of Education (DOE), to develop and coordinate the education advocates for children in a foster care plan. DCS is also required to submit a report to the Governor and Legislative Council detailing this plan. The provisions of this legislation will increase the workload of DCS and DOE employees.

*Background Information:* DCS currently pays for services provided to CHINS and services that formerly would have been provided by the county child welfare fund. Currently, DOC is required to finance services for children placed in secure detention facilities.

Indiana law requires the appointment of either a Guardian Ad Litem or a Court Appointed Special Advocate in abuse and neglect cases. If the child becomes the subject of a petition to terminate the parent/child relationship, the court is required to appoint a GAL or CASA for the child. The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. In 2007, active CASA volunteers contributed an estimated 508,973 hours of time in 19,949 cases involving abused or neglected children in Indiana courts.

**Explanation of State Revenues:** DCS reports that these provisions would help to increase child support collection efforts in the state and may thereby increase federal revenue the state receives from the federal IV-D program. The state receives federal IV-D funding based partially on child support collection amounts in the state. The actual impact on federal revenue is not known.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** *Probation Officers:* This bill will increase the workload of probation officers to the extent that dispositional decrees for qualifying children are modified and require a new child case plan.

Currently, a probation officer is required to create a case plan for a child before 60 days after either (1) the date of a child's placement in an out-of-home residence/facility (that is not a secure detention facility) or (2) the date of the dispositional decree. This bill will modify that requirement to just 60 days after the date of the child's first placement that is paid for by DCS.

The bill will require probation officers who are employed by courts with juvenile jurisdiction to create the same case plans, currently required only for the initial placement, if there is a modification of the child's dispositional decree. Workload increases will depend on the number of dispositional decree modifications.

*Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

*Background Information:* DOC reports that in 2004 there were 4,021 juveniles served in community corrections programs. Currently, there are 73 counties participating in the community corrections program for juveniles.

Often, the children referred to in this bill are placed in detention alternatives like home detention or community correctional facilities. Juveniles in community correction programs are nonviolent, youthful offenders who have been adjudicated for delinquent offenses that, if committed by an adult, would be considered a felony.

**Explanation of Local Revenues:** The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. If this bill changes the number of CHINS, local revenue for the GAL/CASA program may change as well. Actual changes in local revenue are indeterminable, but expected to be small.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** DCS; DMHA; DDRS; Juvenile Court System; Division of State Court Administration; GAL/CASA Program; DOC; Bureau of Child Support.

**Local Agencies Affected:** County GAL/CASA programs, local courts, local law enforcement agencies.

**Information Sources:** Ann Houseworth, DCS; Jim Diller, Division of State Court Administration. Ann Houseworth, DCS; Office of the Guardian Ad Litem/Court Appointed Special Advocate; Leslie Dunn, Division of State Court Administration.

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